

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation
Against:

JEFFREY BRETT SACK, M.D.

Physician's and Surgeon's
Certificate No. A 47918

Respondent

File No. 20-2007-187582

DECISION

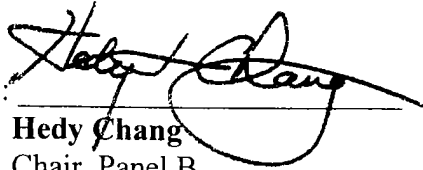
The attached **Proposed Decision** is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on **December 3, 2009.**

IT IS SO ORDERED **November 5, 2009.**

MEDICAL BOARD OF CALIFORNIA

By: _____


Hedy Chang
Chair, Panel B

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JEFFREY BRETT SACK, M.D.,

Physician's & Surgeon's
Certificate No. A47918

Respondent.

Case No. 20-2007-187582

OAH No. 2009040961

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on August 6, 2009, in Oakland, California.

Susan K. Meadows, Deputy Attorney General, represented the Complainant Barbara Johnston, Executive Director of the Medical Board of California.

Roger W. Calton, Attorney at Law, Calton & Burns, LLP, represented Respondent Jeffrey Brett Sack, M.D., who was present.

The record remained open for the receipt of written closing argument. Complainant's Argument re: Penalty and Reply Argument were timely received and marked for identification, respectively, as Exhibits 9 and 10. Respondent's Closing Argument/Post-Trial Brief was timely received and marked for identification as Exhibit J.

The record closed on August 31, 2009.

FACTUAL FINDINGS

1. Complainant Barbara Johnston filed the Accusation in her official capacity as Executive Director of the Medical Board of California (Board).
2. On January 8, 1990, the Board issued Physician's and Surgeon's Certificate No. A47918 to Jeffrey Brett Sack, M.D. (Respondent). Respondent's certificate will expire on December 31, 2009, unless renewed.

3. On July 31, 2007, in the Circuit Court of Sarasota, Florida, Respondent entered a plea of nolo contendere to one felony violation of obtaining a controlled substance by fraud. On the Court's Minute Order, the box is checked next to the following statement: "and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILTY BE WITHHELD."¹ (Emphasis in original.)

Despite the fact that adjudication of guilt had not been made, Respondent was placed on probation for five years. The terms and conditions of probation include submission to a drug evaluation and to a DNA test, and performance of community service. Unless a motion for early termination is granted or probation is revoked, Respondent will be on criminal probation until July 21, 2012.

4. On April 12, 2008, the Florida Board of Medicine issued a Final Order concerning Respondent's Florida medical license. The Florida Board reprimanded Respondent and ordered him to complete a Laws and Rules Course within one year; perform 100 hours of community service within two years; complete an ethics course within one year; retain an independent, certified risk manager to review his practice within six months; stay in compliance with his impaired physician's program; and pay costs of \$3,518.32 and a \$10,000 fine within 30 days. There is no evidence in the record concerning the requirements of the impaired physician's program.

5. The 2007 Florida criminal case and the 2008 Florida Board action were based upon the following acts: on ten occasions between April 2005 and October 2006 Respondent placed orders through his practice for two controlled substances, Suboxone and Subutex, for his own use and without a prescription. Suboxone and Subutex are used for the treatment of opiate drug addiction.

6. Respondent was previously disciplined by the Florida Board for similar conduct. In early July 1996, Respondent wrote a prescription for Duragesic, which contains Fentanyl and is a controlled substance, for a fictitious patient. Respondent presented the prescription to a pharmacist, representing himself to be the fictitious patient, and obtained 500 micrograms of Duragesic.

Respondent was charged in United States District Court with a violation of title 21, United States Code, section 843(a)(3), obtaining possession of a controlled substance by fraud and deception. On August 14, 1996, Respondent pled guilty and was convicted. The record does not reveal the sentence he received.

The Florida Board filed an Administrative Complaint based upon the conviction. The Florida Board issued an Amended Final Order concerning the complaint on January 29, 1997, that states that the "facts are not in dispute." The Order suspended Respondent's license to

¹ It is noted that the Minute Order also contains a box next to the statement: "and no cause being shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s)." This box is not checked.

practice medicine in Florida for one year, but stayed the suspension. A "letter of concern" was issued to Respondent and he was fined \$1,500 and placed on "probation for a term to run concurrent with his current advocacy contract with the Physicians' Recovery Network" (the term of the contract is not in evidence) pursuant to numerous terms and conditions. The conditions included abstaining from controlled substances unless properly and legally prescribed and keeping the Board apprised of all drugs or medications taken.

Respondent's Evidence

7. Respondent has practiced medicine in Florida since 1994. He is a cardiologist and presently a sole practitioner. Respondent's Board Certifications in internal medicine and cardiovascular diseases, earned in 1993, have expired, but he will be sitting for the examinations this November. Respondent graduated from St. George's University School of Medicine in 1987 and from Seton Hall University's School of Graduate Medical Education in 1988. He completed an internship in internal medicine at St. Joseph's Hospital and Medical Center in New Jersey and served a residency in internal medicine at the University of Pittsburgh School of Medicine. Respondent completed fellowships in cardiovascular diseases and interventional cardiovascular diseases at the University of California Los Angeles School of Medicine in 1993. He wishes to move to California within the next 12 months and practice medicine here. This desire is based in part on the location of his three children, who may all be attending school in California in the near future.

8. Respondent is on staff at both of the hospitals in Sarasota and is in good standing with both. Respondent testified that he volunteers with a community medical clinic, where he sees patients in a cardiology clinic who are uninsured or otherwise unable to afford medical care. He has worked at this clinic for about eight months, about 12 to 15 hours per week.

9. Respondent became "addicted to painkillers" in 1995 and had been in recovery for about 12 years when he relapsed. He suffered three injuries in one year, including a knee injury, a broken arm, and a fractured rib. Respondent told his orthopedist about his problem with pain medications and was given short courses, but he found the rib fracture very painful and difficult to endure. In approximately 2006, Respondent was taking Vicoprophen, which is a combination of Vicodin and Ibuprofen. He found that he could not stop this medication without feeling withdrawal symptoms.

Respondent heard about Suboxone and sought out physician Doreen Dupont, who was registered to treat opiate addiction with that drug. At first, he took samples of Suboxone, and later Subutex, that she dispensed from her office. Subsequently, Dr. Dupont wrote prescriptions for these medications for Respondent, but he did not use them. Instead, while continuing to be treated by Dr. Dupont, Respondent instructed his nurse to order the medications for him when she placed orders for other medications. Most of the orders were placed in his name, but the medical supply house issued the last one in his partner's name, and the orders were subsequently discovered by the Drug Enforcement Administration. This resulted in criminal charges.

10. Respondent ordered the drugs for himself, knowing that he was violating the law, because he did not want to have prescriptions filled at a pharmacy. He was aware that the only reason for these medications was to treat addiction, and because he knew most of the pharmacists in Sarasota, he was afraid he would be recognized. Respondent believed that "there was no way to get it and not be recognized," and would have been embarrassed if this fact "got out" into the medical community.

11. Respondent had been very active in the recovery community in the Sarasota area following his initial treatment for addiction. In 1995, he entered the Physician's Referral Network (PRN), which is a Florida drug diversion program for physicians. Respondent stayed active with that group on a volunteer basis, including participating in the Impaired Physician's Society. But he now feels that he had become somewhat complacent about his problem.

Following the 2006 relapse, Respondent re-enlisted in PRN, which he asserts monitors him "pretty closely." He strengthened his program by attending daily 12-step meetings, having daily contact with his sponsor, and seeing a therapist regularly. Respondent did not try to keep his relapse a secret once it was discovered. Instead he has tried to make it into something positive and to help others.

12. Respondent acknowledge that it was a "bad judgment call" to obtain the medications by ordering them for himself. But Respondent's testimony about why he made the illegal purchases of Suboxone and Subutex was problematic. First, his reason for ordering the medications for himself did not make sense. There are many ways to fill a prescription and another method could have been employed without unduly jeopardizing Respondent's privacy. Also, Respondent knew that there were restrictions surrounding the prescribing of Suboxone. This is why he sought out a physician who could legally prescribe it. And yet, he then ordered it himself, an action that he must have known put him at risk for criminal prosecution. Respondent's actions in ordering the medication only delayed the discovery of his relapse; there was no reasonable basis for believing that his relapse would not eventually be discovered. And, of course, it was a crime; a crime that he essentially had committed and suffered the consequences for once before.

13. Respondent represented that he is in compliance with the terms of his current criminal probation and with the Florida Board's Order. He presented corroborative evidence that a certified risk manager has reviewed his practice and that he has paid the \$10,000 fine. The letter stating that the fine has been paid also stated that no costs have been paid. No other corroborative evidence of Respondent's testimony was received, except for the declarations described below. The lack of corroboration of Respondent's descriptions of his recovery activities and volunteer work is particularly noted.

14. Respondent presented two declarations, both signed and dated on July 22, 2009. Robert C. Meade, M.D., is the Chief Operating Officer of Doctors Hospital of Sarasota. He has known Respondent for over four years and describes him as "a willing and valued participant in the physician leadership of the hospital, having served on several committees He is conscientious, attentive, and responsive."

Thomas F. Kelly, M.D., specializes in cardiac surgery in Sarasota. He has known Respondent professionally for over 15 years and describes him as "intelligent and very competent as a physician." Dr. Kelly also declares "I certainly am aware of his issues concerning prescription medications, but have never observed him to be impaired in any way."

LEGAL CONCLUSIONS

1. Business and Professions Code section 141, subdivision (a), provides:

For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

Business and Professions Code section 2305 provides:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

2. The disciplinary action by the Florida Board of Medicine constitutes cause for disciplinary action in California for unprofessional conduct under Business and Professions Code section 2305, and a separate cause for disciplinary action under Business and Professions Code section 141.

3. Business and Professions Code section 2236 provides that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct. Business and Professions Code section 2237 provides that the conviction of a violation of any federal or state law regulating controlled substances constitutes unprofessional conduct.

No grounds for discipline of Respondent's license exist pursuant to these statutes because it was not established that Respondent was convicted of a crime in 2006. (Finding 3.)

A nolo contendere plea, without an adjudication of guilt, does not constitute a conviction. Business and Professions Code sections 2236, subdivision (d), and 2237, subdivision (a), both provide: "A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be conviction within the meaning of this section." And although a conviction in 1996 was proven, that conviction was not alleged as a cause for discipline. It was therefore considered only in aggravation.

Discussion

4. In 1996 Respondent wrote a fictitious prescription for himself, gave it to a pharmacist, and was given a controlled substance. Respondent was convicted in federal court and his Florida medical license was disciplined. Respondent entered a recovery program. Less than ten years later, Respondent again obtained controlled substances illegally for his own use. He was not convicted, but it is not disputed that he engaged in this misconduct on numerous occasions over an 18-month period. Again, his Florida license was disciplined. He was directed back to the recovery program.

Respondent's basic competency and skill as a physician is not in question, but it is clear that he suffers from a powerful substance abuse problem. This problem caused him to violate the law concerning controlled substances. After many years of sobriety, he became dependent again and again chose to violate the law in the same way not once, but on multiple occasions. Such a choice reflects impaired judgment and demonstrates an inability or unwillingness to follow the laws concerning controlled substances. Respondent emphasizes the lack of patient harm involved in his violations. But the law does not require a licensing authority to wait until impairment causes actual harm before taking action against a licensed professional.

5. All things considered, the evidence supports and the public interest requires that Respondent's certificate be placed on probation for a term of five years pursuant to appropriate conditions. The conditions will include a psychiatric/addiction evaluation as a condition precedent and a prescribing course.

ORDER

Physician's and Surgeon's Certificate No. A47918, issued to Jeffrey Brett Sack, M.D., is revoked; however, revocation is stayed and Respondent is placed on probation for five years upon the following terms and conditions:

1. Psychiatric/Addiction Evaluation

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric/addiction evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist

deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall not engage in the practice of medicine until notified by the Board or its designee that Respondent is mentally fit to practice medicine safely. The period of time that Respondent is not practicing medicine shall not be counted toward completion of the term of probation.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

Failure to undergo and complete a psychiatric evaluation and psychological testing, or comply with the required additional conditions or restrictions, is a violation of probation.

2. Controlled Substances - Abstain From Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawful prescription medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name and strength; and issuing pharmacy name, address, and telephone number.

3. Biological Fluid Testing

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. Prior to practicing medicine, Respondent shall, at Respondent's expense, contract with a laboratory or service - approved in advance by the Board or its designee - that will conduct random, unannounced, observed, urine testing a minimum of four times each month. The contract shall require results of the urine tests to be transmitted by the laboratory or service directly to Board or its designee within four hours of the results becoming available. Failure to maintain this laboratory or service during the period of probation is a violation of probation. A certified copy of any laboratory test result may be received in evidence in

any proceedings between the Board and Respondent. Failure to submit to or comply with the time frame for submitting to, or failure to complete the required biological fluid testing, is a violation of probation.

4. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices, at Respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. Controlled Substances- Maintain Records and Access to Records and Inventories

Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

Failure to maintain all records, to provide immediate access to the inventory, or to make all records available for immediate inspection and copying on the premises, is a violation of probation.

6. Notification

Prior to engaging in the practice of medicine Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. Supervision of Physician Assistants

During probation, Respondent is prohibited from supervising physician assistants.

8. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. Probation Unit Compliance

Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee.

Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

11. Interview with the Board or its Designee

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

12. Residing or Practicing Out-of-State

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's certificate shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's certificate shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of

that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

Any Respondent disciplined under Business and Professions Code sections 141(a) or 2305 (another state discipline) may petition for modification or termination of penalty: 1) if the other state's discipline terms are modified, terminated or reduced; and 2) if at least one year has elapsed from the effective date of the California discipline.

13. Failure to Practice Medicine - California Resident

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

14. Completion of Probation

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

15. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation

and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

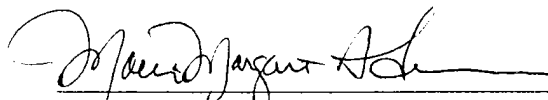
16. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

DATED: September 29, 2009


MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 31, 2008
BY Brenda Allen ANALYST

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 20-2007-187582

JEFFREY BRETT SACK, M.D.
P.O. Box 15157
Sarasota, FL 34277-1577

A C C U S A T I O N

Physician's and Surgeon's Certificate No.
A47918

Respondent.

Complainant alleges:

PARTIES

1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (the Board.)
2. On or about January 8, 1990, Physician's and Surgeon's Certificate No. A47918 was issued by the Board to Jeffrey Brett Sack, M.D. (hereinafter "respondent"). The certificate is renewed and current with an expiration date of December 31, 2009.

JURISDICTION

3. This Accusation is brought before the Board¹, under the authority of the following sections of the California Business and Professions Code (hereinafter Code) and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period of not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

D. Section 2236 of the Code provides, in pertinent part, that the conviction of

1. As used herein, the term "Board" means the Medical Board of California. As used herein, "Division of Medical Quality" shall also be deemed to refer to the Board.

1 any offense substantially related to the qualifications, functions or duties of a physician
2 and surgeon constitutes unprofessional conduct.

3 E. Section 2237 of the Code provides that the conviction of a charge of
4 violating any federal statutes or regulations or any statute or regulation of this state,
5 regulating dangerous drugs or controlled substances constitutes unprofessional conduct.
6 A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed
7 to be a conviction within the meaning of this statute.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Discipline, Restriction, or Limitation Imposed by Another State)

10 4. Respondent is subject to discipline within the meaning of section 141 and
11 is guilty of unprofessional conduct within the meaning of section 2305 as more particularly set
12 forth below.

13 5. On or about April 18, 2008, the Florida Board of Medicine issued a Final
14 Order regarding respondent's license to practice medicine in Florida. The Florida Board issued a
15 reprimand, and required respondent to complete a Laws and Rules course, to perform 100 hours
16 of community service, to complete an ethics course, to retain an independent, certified risk
17 manager to review respondent's practice, to stay in compliance with his impaired physicians
18 program, and to pay a fine and costs. The Final Order resolved an Administrative Complaint
19 alleging that in 2005-2006, respondent ordered and received Suboxone and Subutex, controlled
20 substances used for the treatment of opiate drug addiction, without proper authorization.
21 Respondent admitted to law enforcement officers that he obtained the narcotics for personal
22 consumption. Respondent's conduct resulted in a felony criminal conviction.

23 Attached hereto as Exhibit A is a true and correct copy of the Final Order issued
24 by the Florida Board of Medicine.

25 6. Respondent's conduct and the action of the Florida Board of Medicine as
26 set forth in paragraph 5, above, constitute unprofessional conduct within the meaning of section
27 2305 and conduct subject to discipline within the meaning of section 141(a).

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4. Taking such other and further action as the Board deems necessary and proper.

DATED: July 31, 2008


BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

SF2008401912

20122296.wpd

Exhibit A

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2006-36715

LICENSE NO.: ME0056807

JEFFREY B. SACK, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on April 4, 2008, in West Palm Beach, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise full advised in the premises, the Board rejected the Settlement Agreement and offered a Counter Settlement Agreement which was accepted on the record by the parties. The Counter Settlement Agreement incorporates the original Settlement Agreement with the following amendments:

1. The letter of concern set forth in Paragraph 1 of the Stipulated Disposition shall be deleted.

2. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$3,518.32.

3. The continuing medical education (CME) set forth in Paragraph 6 of the Stipulated Disposition shall be deleted.

4. Respondent shall document the completion of 5 hours of continuing medical education (CME) in the area of ethics within one (1) year from the date this Final Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Unless otherwise approved by the Board or the Chairperson of the Probation Committee, said continuing education courses shall consist of a formal live lecture format.

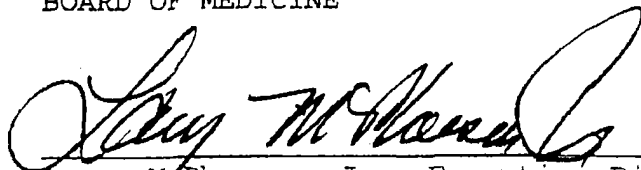
5. Respondent shall be and hereby is REPRIMANDED by the Board.

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference with the amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as amended.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 16 day of APRIL, 2008.

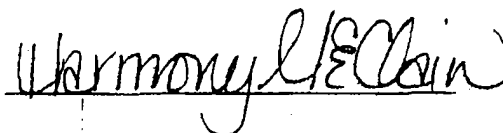
BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
For Fred Bearison, M.D., Vice-Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Jeffrey B. Sack, M.D., Post Office Box 15157, Sarasota, Florida 34277; to Allen R. Grossman, Esquire, Metzger, Grossman, Furlow & Bayo, LLC, 1408 N. Piedmont Way, Tallahassee, Florida 32308; and by interoffice delivery to Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 18 day of April, 2008.



Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2006-36715

JEFFREY B. SACK, M.D.,

Respondent,

SETTLEMENT AGREEMENT

Jeffrey Sack, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 56807.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of

Chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** - The Board of Medicine shall impose an administrative fine of TEN THOUSAND DOLLARS (\$10,000.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The

Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and prosecution of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case includes but shall not exceed FOUR THOUSAND TWO HUNDRED DOLLARS (\$4,200.00). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer within thirty-days (30) from the

date of filing of the Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. **Laws And Rules Course** - Respondent shall complete the Laws and Rules Course, administered by the Florida Medical Association, within one (1) year of the date of filing of the Final Order of the Board. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical education course within one (1) year of the date of filing of the Final Order incorporating this Agreement. **All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Department.** These hours shall be

in addition to those required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education courses shall consist of a live, lecture format.

5. **Community Service** - Respondent shall perform ONE HUNDRED (100) hours of community service within TWO (2) years of the date of filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board as required by the Probation Committee.

6. **Continuing Medical Education** - Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend EIGHT (8) hours of Continuing Medical Education (CME) on Buprenorphine and Office-Based Treatment of Opioid Dependence. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education course(s). Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course

within one (1) year of the date of filing of the Final Order in this matter. All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure.

7. Quality Assurance Consultation/Risk Management Assessment

- An independent, certified risk manager will review Respondent's current practice within six (6) months of the date of filing of the Final Order. Specifically, this independent consultant shall review the office procedures employed at Respondent's practice. This consultant will prepare a report addressing Respondent's practice. This report will include suggested improvements of the quality assurance of Respondent's practice. Respondent will submit this report, as well as documentation that demonstrates compliance with the suggestions enumerated in the report, to the Probation Committee. Respondent shall bear the cost of such consultation and any necessary or appropriate follow-up consultation.

8. Compliance with PRN Contract - The Respondent must stay in Compliance with all terms of his PRN contract.

STANDARD PROVISIONS

1. Appearance: Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

5. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

6. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with

consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.


7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

8. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

9. **Waiver of further procedural steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or

contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

SIGNED this 27TH day of FEBRUARY, 2008.

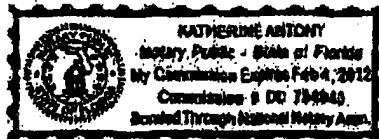

JEFFREY B. SACK, M.D.

STATE OF FLORIDA

COUNTY OF Sarasota

Before me, personally appeared Jeffrey B. Sack, whose identity is known to me or by Florida Driver License (type of Identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 27 day of February, 2008.

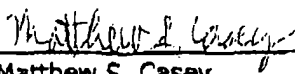



NOTARY PUBLIC

My Commission Expires: 2/4/2012

APPROVED this 27th day of February, 2008.

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General


By: Matthew S. Casey
Assistant General Counsel
Department of Health

MSC/das

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2006-36715

JEFFREY B. SACK, M.D.,

RESPONDENT,
_____ /

DEC 10 2007

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against the Respondent, Jeffrey B. Sack, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 56807.

3. The Respondent's address of record is P.O. Box 15157, Sarasota, FL 34277.

4. At all times material to this complaint, the Respondent was issued Drug Enforcement Administration ("DEA") registration number BS2674883, which entitled him to purchase, prescribe, and dispense controlled substances in Schedules II, III, IV, and V.

5. At all times material to this complaint, the Respondent's DEA registration number did not authorize the Respondent to purchase, prescribe, or dispense any controlled substance exclusively used for the treatment of opiate drug addiction, including Suboxone and Subutex. Suboxone and Subutex are narcotics used to treat narcotic dependence by preventing withdrawal symptoms.

6. At all times material to this complaint, the Respondent was not a registered participant in the DEA-regulated Office-Based Opioid Treatment ("OBOT") program, which is a requirement for the handling of Suboxone and Subutex.

7. On or about April 25, 2005, the Respondent received from Besse Medical three (3) bottles of Suboxone with each containing thirty (30) tablets and three (3) bottles of Subutex with each containing thirty (30) tablets.

8. On or about June 2, 2005, the Respondent received from Besse Medical three (3) bottles of Suboxone with each containing thirty (30) tablets and three (3) bottles of Subutex with each containing thirty (30) tablets.

9. On or about August 10, 2005, the Respondent received from Besse Medical three (3) bottles of Subutex with each containing thirty (30) tablets.

10. On or about August 11, 2005, the Respondent received from Besse Medical six (6) bottles of Suboxone with each containing thirty (30) tablets.

11. On or about October 21, 2005, the Respondent received from Besse Medical three (3) bottles of Suboxone with each containing thirty (30) tablets and three (3) bottles of Subutex with each containing thirty (30) tablets.

12. On or about November 11, 2005, the Respondent received from Besse Medical three (3) bottles of Suboxone with each containing thirty (30) tablets.

13. On or about January 3, 2006, the Respondent received from Besse Medical four (4) bottles of Suboxone with each containing thirty (30) tablets.

14. On or about February 21, 2006, the Respondent received from Besse Medical six (6) bottles of Suboxone with each containing thirty (30) tablets.

15. On or about July 11, 2006, the Respondent received from Besse Medical six (6) bottles of Suboxone with each containing thirty (30) tablets and three (3) bottles of Subutex with each containing thirty (30) tablets.

16. On or about October 4, 2006, the Respondent received from Besse Medical six (6) bottles of Suboxone with each containing thirty (30) tablets and two (2) bottles of Subutex with each containing thirty (30) tablets.

17. On or about October 4, 2006, a consensual search of the Respondent's residence at 7615 Sanderling Road, Sarasota, Florida 34242, by law enforcement revealed an additional quantity of fifteen and one half (15 1/2) tablets of Suboxone present at that location.

18. The Respondent admitted to law enforcement that he obtained the above-alleged quantities of Suboxone and Subutex for personal consumption.

19. On or about October 19, 2006, the Respondent was arrested on several felony charges. On or about February 5, 2007, the Respondent

was charged by information with ten (10) felony counts of Obtaining Controlled Substance by Fraud and one (1) felony count of Possession of Controlled Substance.

20. On or about July 31, 2007, the Respondent was charged by amended information, which replaced the original information, with one (1) third-degree felony count of Scheme to Defraud (Less Than \$20,000). The amended information alleged that in Sarasota County, Florida, between April 25, 2005, and October 2, 2006, the Respondent did unlawfully engage in a scheme constituting a systematic, ongoing course of conduct with intent to defraud one or more persons or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, or promises or willful misrepresentations of a future act, and so obtained property from of an aggregate value of less than \$20,000, contrary to Section 817.034(4)(a)3., Florida Statutes, in such case made, and provided against the peace and dignity of the State of Florida.

21. On or about July 31, 2007, the Respondent entered a nolo contendere ("no contest") plea to one (1) third-degree felony count of Scheme to Defraud and was placed on five (5) years probation under the supervision of the Florida Department of Corrections. The Respondent's special conditions of probation included undergoing a drug evaluation and

referral within forty-five (45) days of the plea, performing fifty (50) hours of community service work, and undergoing a DNA test with a provision for the application of early termination of probation after half is completed.

22. The crime of Scheme to Defraud relates to the practice of medicine or to the ability to practice medicine since it involved a scheme to fraudulently obtain controlled substances for the Respondent's own personal consumption. Furthermore, the qualities essential to the practice of medicine include reliability, honesty, and good moral character. The crime for which the Respondent pled no contest demonstrates that the Respondent lacks these essential qualities. By demonstrating that the Respondent lacks these essential qualities, the Respondent's crime relates to his ability to practice medicine by showing that he is not worthy to be entrusted with the privileges and authority vested in those who are licensed to practice medicine.

COUNT ONE

23. Petitioner realleges and incorporates paragraphs one (1) through twenty-two (22) as if fully set forth herein.

24. Section 458.331(1)(r), Florida Statutes (2004-2006), provides that prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in Chapter 893 by the physician to himself or

herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs constitutes grounds for disciplinary action by the Board of Medicine.

25. The Respondent prescribed, dispensed, or administered Suboxone and/or Subutex, which appears on Schedule III in Chapter 893, to himself on or about one or more of the following dates: April 25, 2005, June 2, 2005, August 10, 2005, August 11, 2005, October 21, 2005, November 11, 2005, January 3, 2006, February 21, 2006, July 11, 2006, and/or October 4, 2006.

26. Based on the foregoing, the Respondent has violated Section 458.331(1)(r), Florida Statutes (2004-2006), by prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in Chapter 893 by the physician to himself.

COUNT TWO

27. Petitioner realleges and incorporates paragraphs one (1) through twenty-two (22) as if fully set forth herein.

28. Section 458.331(1)(c), Florida Statutes (2006), provides that being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly

relates to the practice of medicine or to the ability to practice medicine constitutes grounds for disciplinary action by the Board of Medicine.

29. On or about July 31, 2007, the Respondent entered a nolo contendere ("no contest") plea to one (1) third-degree felony count of Scheme to Defraud and was placed on five (5) years probation under the supervision of the Florida Department of Corrections. The crime of Scheme to Defraud relates to the practice of medicine or to the ability to practice medicine since it involved a scheme to fraudulently obtain controlled substances for the Respondent's own personal consumption. Furthermore, the qualities essential to the practice of medicine include reliability, honesty, and good moral character. The crime for which the Respondent pled no contest demonstrates that the Respondent lacks these essential qualities. By demonstrating that the Respondent lacks these essential qualities, the Respondent's crime relates to his ability to practice medicine by showing that he is not worthy to be entrusted with the privileges and authority vested in those who are licensed to practice medicine.

30. Based on the foregoing, the Respondent has violated Section 458.331(1)(c), Florida Statutes (2006), by being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a

crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 10th day of December, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Racine*
DATE 12.10.07

Matthew Casey
Matthew Casey
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0115320
(850) 245-4640 ext. 8173— phone
(850) 245-4681 – fax

PCP: December 7, 2007
PCP Members: Leon, Cline & Beebe

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.